

REMARKS

Claims 11-30 and 34-51 were presented for examination. In an Office Action dated October 28, 2009, claims 11-30 and 34-51 were rejected. Claims 11, 17, 34, 37, 43, and 50 are amended herein to more distinctly claim Applicants' invention.

Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below. Based on the above Amendment and following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

Substance of the Interview

Applicants thank the Examiner for his time in conducting a telephone interview on December 9, 2009, and a follow up discussion on February 2, 2010. During the telephone interviews, Applicants' attorney, co-inventor Matt Ginsberg, and the Examiner discussed the differences between the claimed invention and the prior art. Specifically, none of the cited references disclose minimizing cost. Rather, at best, Smith and Amico teach minimizing schedule duration. The Examiner suggested amending the claims to more particularly recite the distinction between the claimed minimization of cost and the minimization of duration shown, for example, in Amico. The Applicants proposed the claim amendments presented herein to clarify that the associate cost estimated/minimized in the various claims presented herein "is based significantly on properties of the proposed schedule other than duration." The Examiner has agreed that the proposed amendments overcome the existing rejections of the claims.

Response to Rejections Under 35 USC 103(a)

The Examiner rejected claims 11-22, 28-30, and 34-36 under 35 USC § 103(a) as being unpatentable over Smith, et al. (“Smith”), “Iterative Flattening: A Scalable Method for Solving Multi-Capacity Scheduling Problems”, in view of Amico, et al. (“Amico”), Applying Tabu Search to the Job-shop Scheduling Problem”. Claims 37-47 and 49-51 were rejected as being unpatentable over Smith and Amico, in further view of Stidsen et al., “Jobshop scheduling in a shipyard,” (“Stidsen”). Claims 23 and 27 were rejected as being unpatentable over Smith and Amico, in further view of US 2002/0065702 to Caulfield (“Caulfield”). Claim 48 was rejected as being unpatentable over Smith, Amico, and Stidsen, in further view of Caulfield. Claim 24-26 were rejected as being unpatentable over Smith, Amico, and Caulfield, in further view of US 2001/0047274 to Borton (“Borton”). These rejections are now overcome.

Claim 11 now recites “the associated cost is based significantly on properties of the proposed schedule other than duration.” Independent claims 17, 34, 37, 43, and 50 recite similar features. As discussed above in the Substance of the Interview, the Examiner agrees that none of the cited references disclose or suggest a scheduling system having these features. Applicants respectfully submit that for at least these reasons claims 11, 34, 37, 43, and 50 and the claims that depend from them (i.e., all pending claims, claims 11-30 and 34-50), are patentably distinguishable over the cited references, both alone and in combination.

Therefore, for these reasons, Applicants respectfully request that the Examiner withdraw the rejections of claims 11-30 and 34-51.

Conclusion

In sum, Applicants respectfully submit that all claims now pending are patentable over the cited references for at least the reasons given above, while not necessarily conceding any contention not specifically addressed. Applicants request reconsideration of the basis for the rejections of these claims and request allowance of them.

If the Examiner believes that for any reason direct contact with Applicants' attorney would help advance the prosecution of this case, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully Submitted,

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